

DEPARTMENT OF CORRECTIONS

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DOCKET FILE COPY ORIGINAL

July 27, 1994

The Honorable Reed E. Hunt
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

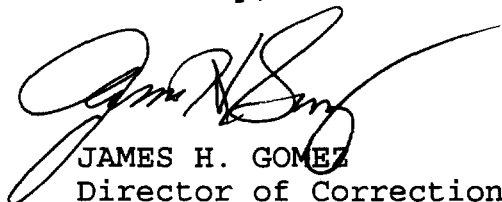
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Dear Commissioner Hunt:

The enclosed comments are submitted by the California Department of Corrections in response to the Billed Party Preference proposal. We have provided an original document and nine copies so that each commissioner may also receive a copy.

We appreciate this opportunity to submit comments for the Commission's consideration.

Sincerely,



JAMES H. GOMEZ
Director of Corrections

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
) CC Docket 92-77
Billed Party Preference)
For 0+InterLATA Calls)

Comments by the
STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS

The Department of Corrections of the State of California (hereinafter "CDC") is a public safety agency with responsibility for the care, custody, treatment, training, discipline and employment of persons (inmates and parolees) confined and supervised under its jurisdiction. CDC was responsible for the administration of 12 State prisons in 1984; there are now 28 prisons with five more in design and construction. The Department currently has responsibility for a population of approximately 124,000 inmates. It is projected that the recently passed "Three Strikes" legislation may increase our current population by another 130,000 inmates.

Challenged with such an immense task and being one of the largest public safety agencies in the country, CDC recognizes the importance of telecommunications to the success of its public safety mission. Inmate telephones are an important part of the control and treatment of inmates. The inmate telephone system must be provided and administered in a manner which controls inmates and ensures the security of the institutions and the safety of the public.

CDC submits these comments in response to the Further Notice of Proposed Rulemaking regarding Billed Party Preference (BPP) for 0+ InterLATA calls. This Notice proposes to route collect calls from inmates via the carrier chosen by the party paying for the call. The Department objects to this proposal and seeks a ruling that will exempt inmate calls from BPP. Correspondingly, we submit the following comments regarding the adverse impacts of BPP on:

- The departmental inmate telephone system.
- The inmates in California prisons.
- The effectiveness and cost of controlling fraud, criminal activity and citizen victimization originating on inmate lines with or without BPP.
- The issue regarding whether Local Exchange Carriers

(LEC) providing Line Information Data Base (LIDB) queries should be required to tariff some form of anti-fraud service, e.g., one that would signal Operator Service Providers (OSP) if a suspicious number of collect or third number calls were directed to a particular telephone number.

- The suggestion offered by some OSPs and competitive pay phone providers serving prison facilities that prisons be exempted from BPP if they subscribe to an OSP that charges rates below that of the dominant carrier for inter and intraLATA calls.

The implications of this proposal have a direct adverse impact on the Department's contractually provided inmate call collect telephone system which has been designed specifically to meet departmental security needs and prevent fraudulent telephone use.

Before the Department was able to monitor, record and block calls, inmates could use telephones for the following:

- Inmate telephone fraud (both charging calls to others and using the telephone to order goods and services for which they did not intend to pay).

- Aggravated harassment of citizens, victims, jurors, staff and officials of the criminal justice system.
- Initiating and controlling criminal activity (e.g., drug dealing, confidence games, pandering, using stolen credit card numbers).

CURRENT INMATE CALL COLLECT TELEPHONE SYSTEM

The current inmate call collect system used in California prisons has been competitively bid. The bid requirements specifically state that "for interLATA calls [the winning vendors] shall use rates charged by AT&T as a maximum or ceiling for user charges." For intraLATA calls, the same requirement applies using Pacific Bell rates as a ceiling. The winning vendors are MCI and GTE. Both contractors provide the same equipment, service and maintenance but cover different parts of the State. IntraLATA service is provided by GTE in their LEC areas and by the LEC in each LATA served. MCI provides all long distance (interLATA) service which allows standardization statewide for these calls. It allows for centralized monitoring of calls made for fraud, criminal activity and harassment. It also allows economical system modifications, enhancements and updates.

The MCI and GTE contracts provide telephone instruments (about 100 per prison), monitors (about 20 per prison which monitor all inmate calls), recording equipment (one per prison which record all inmate calls), a terminal for our Law Enforcement Unit (to identify and block "hot" telephone numbers used for criminal activity), a centralized integrated data base for blocking calls and LIDB "lookouts." Also provided are all line charges and complete maintenance of all equipment and systems. There are no charges to the State of California or to inmates and the State receives a competitively bid commission rate which amounts to approximately \$700,000 per month. Parties who accept collect calls from inmates are being billed MCI tariffed rates for interLATA collect calls and LEC tariffed rates for intraLATA collect calls.

This inmate call collect system is implemented at all 28 prisons for 124,000 inmates and is designed into all new prison construction.

Inmates in California prisons are allowed to make only collect calls. A direct call system which would debit an inmate's account has been thoroughly analyzed and rejected

because of the administrative difficulties and cost of managing such a system. Further, a debit system would also require control and blocking of numbers to prevent criminal activity, fraud and harassment. Inmates would have to be charged enough to cover the costs of a debit system.

Inmates without funds would be severely restricted in their ability to communicate with their families which often causes behavioral problems.

Any system which uses debit cards has also been rejected for the same reasons. A debit card in a prison becomes a monetary system and encourages some inmates to intimidate others thereby creating potential security and public safety risks. For these same reasons, inmates are not allowed to possess any coins or dollar bills. Further, experience has shown that inmates should not be allowed to make operator assisted calls. Operators can be manipulated to make unauthorized calls. Therefore, our system has been designed to automatically route all inmate calls from California prisons.

A crucial part of the California prison inmate telephone system is the centralized data base through which all inmate

calls are routed. This routing meets public safety and prison security needs. It also helps to control telephone fraud by automatic restriction of where and who inmates can call. Suspicious numbers, numbers of known drug dealers or calls to parties, who will transfer an inmate call to a third party, can be blocked automatically. Calls related to criminal activity or to harassment of citizens, victims, judges, jurors, district attorneys and other unauthorized calls can be monitored, recorded and blocked. When these numbers are identified at one prison, they can be centrally blocked for all inmates at all prisons.

All interLATA calls made by California inmates are branded. At the beginning and randomly throughout the call, a computerized background voice notifies the person receiving the call that it is coming from a California State prison or camp. Branding warns the receiving party, the paying party or the recipient of a third party call that the call is from a prison or camp. We are also working toward branding all intraLATA calls.

IMPACT OF BILLED PARTY PREFERENCE

The current inmate call collect system is very successful in

controlling telephone fraud, harassment calls and telephone initiated criminal activity. Implementation of BPP potentially exposes the citizens of the State of California to increased fraudulent and criminal telephone activity by inmates as well as prison security breaches which may occur during the transition from our current system to one that is yet to be fully developed. Additionally, we believe that the security features which may be developed will not provide the same precautions and protection of the public as our current system provides.

Specifically, analysis of monitored and recorded inmate telephone calls is an essential component of the overall prison security program which may not be feasible under BPP. We do not believe that fraud control features which could be provided on a nationwide basis would be this comprehensive. Therefore, we strongly recommend that prisons be exempted from BPP as it cannot be guaranteed that the same fraud/criminal activity security measures can be implemented to protect the citizens of California.

Under BPP, all calls would be routed automatically to the carrier preferred by the party being billed for the call. This means that inmate calls would not be routed through the

CDC centralized data base that can restrict unauthorized, illegal or fraudulent calls.

Because the prisons would be unable to route inmate calls through a centralized data base, the Department would lose control over public safety and security issues such as who the inmate calls and the ability to brand inmate calls. The parties billed for the inmates' collect calls could select from more than 50 carriers. It is unlikely that 50 or more carriers could or would be willing to negotiate individual agreements to provide number blocking or branding in accordance with the Department's specifications. There would be no incentive for them to do so and we do not have the resources to handle this workload.

The consequences of BPP would be a significant adverse impact on security and/or substantially increased costs as the current system is operated at no cost to the State through bid contracts. To continue the present contracted system, the State would have to purchase, maintain and administer the system with public moneys. We would have to place central processing equipment at each prison to block the calls coming

from that prison. A centralized statewide system would have to be purchased to integrate information and block calls from the 28 prisons and 124,000 inmates.

The estimated expenditure required to implement such a system would be \$16,000,000 in initial costs for telephones, monitors, recorders, computers and environmentally controlled space and more than \$7,000,000 for maintenance of equipment and software, line costs, LIDB "lookups," and technical assistance. Duplicating our current system would also require extensive staff resources to manage the inmate call collect pay telephone system. This management is now provided by contractors' employees. Owning and administering this system would, in reality, require the Department of Corrections to become a "telephone company." Becoming a telephone company is neither within the purview of our expertise nor is it reasonable or practical for a governmental department charged with the administration of prisons and the supervision of inmates.

Due to the potential breaches in security as well as the significant fiscal impacts, the State would not be able to

implement the provisions of BPP without imposing a significant hardship on the citizens of California. It is very unlikely that the State will allocate millions of dollars to provide a secure inmate telephone system. Consequently, the State may have to reduce the number of inmate telephones drastically, purchase limited recording and monitoring equipment, and assign correctional officers to monitor inmate calls. Correspondingly, the number of calls inmates could make to communicate with their families would be drastically reduced.

Despite the potential use of telephones for fraudulent or criminal activities, the calls that inmates make to their families are an important component of maintaining communication which reinforces rehabilitative efforts and maintains prison and community security. Reducing the number of telephones would not be in the best interest of the State or of the inmates. It could cause potential lawsuits for violation of inmate rights as well as behavioral problems which would result in security and inmate control problems at the prison.

Further, it is questionable as to whether the intent of reducing consumer costs would be realized by inmate families in California because of the current contractually required cap on the amount vendors can charge.

Effectiveness/Cost of Controlling Fraud

As previously discussed, we believe the potential exists for increased fraud under BPP as we believe that all LECs will not have the same security provisions as currently exist under our contracts.

Anti-Fraud Tariff

While mandatory requirement of LIDB queries is an essential element of fraud prevention, this alone will not meet our security needs. Additionally, it is unclear how the proposed tariff would be applied and whether it would result in higher costs to inmate families than currently charged under our contractual cap.

If the BPP proposal is approved, LECs should be mandated to have LIDB access to prevent fraud. However, this will not

provide all of the same features we currently have in place such as call monitoring and recording.

Prison Reduced Rate Subscription Exemption

We would not oppose an exemption for prisons based on subscription to an OSP charging rates below the dominant carrier as this is very close to our existing arrangements, provided that the criteria is clearly articulated so that we can include it in our requests for competitive procurements.

Full implementation of BPP would be antithetical to the interests of the State, the inmates, the telephone industry and the public for the reasons stated above.

RECOMMENDATION

The California Department of Corrections strongly recommends that prison settings be exempted from BPP due to the security breaches, significant costs and operational problems it would impose. While full exemption is preferable, we would not oppose exemption based on subscription to OSPs charging rates lower than the dominant carrier provided that the clarification requested above is provided in the final

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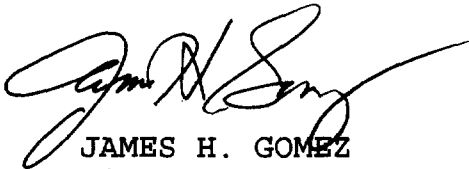
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oppose exemption based on subscription to OSPs charging rates lower than the dominant carrier provided that the clarification requested above is provided in the final ruling.

If you have questions about our concerns in relation to providing public and inmate security, decreasing inmate fraud by controlling inmate telephone calls or in relation to our opposition to this proposal, please call Pamela Shintaku, Chief of the CDC Office of Telecommunications at (916) 323-2511.

A handwritten signature in black ink, appearing to read 'James H. Gomez', is written over the printed name.

JAMES H. GOMEZ
Director of Corrections